



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

APR 28 2017

Bruno L. Pigott
Commissioner

VIA CERTIFIED MAIL: 7004 1160 0004 6517 9078 VIA CERTIFIED MAIL: 7004 1160 0004 6517 9085

Francesco Carantani, President
Essroc Cement Corporation
3251 Bath Pike
Nazareth, PA 18064

McGuinness & Hodavance, Registered Agent
2517 Rt 35, Bldg B
Suite 202
Manasquan, NJ 08736

Re: Notice of Violation and Proposed Agreed Order
Essroc Cement Corporation
019-00008
Speed, Clark County
Case No. 2016-24094-A and 2016-24095-A

Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.

Dear Mr. Carantani:

This is to advise that the Indiana Department of Environmental Management (IDEM) has conducted an investigation of Essroc Cement Corporation located at 301 Highway 31, Speed, Indiana. As a result of information obtained during that investigation, IDEM has made a preliminary determination that violations of air pollution laws and permits exist. Pursuant to IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations, and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation. A portion of the civil penalty may be offset by performing an approved Supplemental Environmental Project (SEP). Typical SEPs have included pollution prevention, pollution control, and environmental restoration projects. A copy of IDEM's SEP policy may be obtained from this office or at IDEM's website at www.IN.gov/idem.



A State that Works

The individual signing the enclosed Agreed Order should be the President of the company or other authorized signatory. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than sixty days. You may enter into an Agreed Order without admitting that the violations occurred. If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental rules, and/or permits, including payment of a civil penalty. Please contact me at (317) 232-8408 or e-mail mchaifetz@idem.IN.gov, if you have any questions or if you wish to request a settlement conference.

Sincerely,



Matthew Chaifetz
Senior Enforcement Manager
Enforcement Section
Office of Air Quality

Enclosures

cc: Luis Rodriguez, Environmental Manager, Heidelberg Technology Center
Timothy L. Matz, Corporate Director of Environmental Affairs, Lehigh Hanson
Rochelle Marceillars, US EPA Region 5
Clark County Health Department
Matthew Chaifetz, Compliance & Enforcement, OAQ, via electronic delivery
Pat Austin, Compliance & Enforcement, OAQ, via electronic delivery
Marty Yeates, Compliance & Enforcement, OAQ, via electronic deliver
<http://www.IN.gov/idem>



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NOTICE OF VIOLATION

Via Certified Mail

No.: 7004 1160 0004 6517 9078

Via Certified Mail No.: 7004 1160 0004 6517 9085

To: Francesco Carantani, President
Essroc Cement Corporation
3251 Bath Pike
Nazareth, PA 18064

To: McGuinness & Hodavance, Registered Agent
2517 Rt 35, Bldg B
Suite 202
Manasquan, NJ 08736

Case Nos. 2016-24094-A and 2016-24095-A

Based on an investigation, the Indiana Department of Environmental Management ("IDEM") has reason to believe that Essroc Cement Corporation ("Respondent") has violated environmental rules and permit. The violations are based on the following:

1. Respondent owns and operates a portland cement manufacturing plant with Plant I.D. No. 019-00008 located at 301 Highway 31 in Speed, Clark County, Indiana (the "Site").
2. Pursuant to Part 70 permit 019-35842-00008, issued September 2, 2015, condition D.2.7(a), in order to comply with PSD Minor Limits for PM/PM10 each baghouse for particulate control shall be in operation and control emissions at all time the associated facility in in operation.

Respondent failed to operate the baghouses controlling finish mills 2B and 2C from November 12-14, 2015, in violation of Part 70 permit 019-35842-00008, condition D.2.7(a).

3. Pursuant to 40 CFR 63.1346(a), affected sources subject to this subpart must demonstrate compliance with the emissions standards and operating limits by using the test methods and procedures in §§63.1349 and 63.7.

Respondent failed to demonstrate compliance with 40 CFR 63.1346(a) for PM and Total Hydrocarbon ("THC") for Kiln #1 and #2 and for PM for Clinker Cooler #1 and #2 by March 7, 2015, in violation of 40 CFR 63.1346(a).

4. Pursuant to 40 CFR 63.1343, Table 1, emissions for an existing kiln at a major or area source is limited to 0.07 pounds of PM per ton of clinker produced.

Based on a stack test conducted October 14, 2015, Kiln #1 failed to



demonstrate compliance with the 0.07 pounds of PM per ton of clinker produced, in violation of 40 CFR 63.1343, Table 1.

5. Pursuant to Part 70 permit 019-35842-00008, issued September 2, 2015, condition C.14(b), a retest to demonstrate compliance shall be performed no later than 180 days after the date of the test.

Respondent failed to retest Kiln #1 within 180 days after failing stack test on October 14, 2015, in violation of Part 70 permit 019-35842-00008, condition C.14(b).

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violation[s] and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Matthew Chaifetz at (317)232-8408 or mchaifet@idem.IN.gov within fifteen (15) days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 4/27/17



Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality

cc: Luis Rodriguez, Environmental Manager, Heidelberg Technology Center
Timothy L. Matz, Corporate Director of Environmental Affairs, Lehigh Hanson
Rochelle Marceillars, US EPA Region 5
Clark County Health Department
Matthew Chaifetz, Compliance & Enforcement, OAQ, via electronic delivery
Pat Austin, Compliance & Enforcement, OAQ, via electronic delivery
Marty Yeates, Compliance & Enforcement, OAQ, via electronic delivery
<http://www.in.gov/idem/enforcement/>

4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") via Certified Mail to:

Francesco Carantani, President	McGuinness & Hodavance, Registered Agent
Essroc Cement Corporation	2517 Rt 35, Bldg B
3251 Bath Pike	Suite 202
Nazareth, PA 18064	Manasquan, NJ 08736

5. During an investigation conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to Part 70 permit 019-35842-00008, issued September 2, 2015, condition D.2.7(a), in order to comply with PSD Minor Limits for PM/PM10 each baghouse for particulate control shall be in operation and control emissions at all time the associated facility in in operation.

Respondent failed to operate the baghouses controlling finish mills 2B and 2C from November 12-14, 2015, in violation of Part 70 permit 019-35842-00008, condition D.2.7(a).

- b. Pursuant to 40 CFR 63.1348(a), affected sources subject to this subpart must demonstrate compliance with the emissions standards and operating limits by using the test methods and procedures in §§63.1349 and 63.7.

Respondent failed to demonstrate compliance with 40 CFR 63.1348(a) for PM and Total Hydrocarbon ("THC") for Kiln #1 and #2 and for PM for Clinker Cooler #1 and #2 by March 7, 2016, in violation of 40 CFR 63.1348(a).

- c. Pursuant to 40 CFR 63.1343, Table 1, emissions for an existing kiln at a major or area source is limited to 0.07 pounds of PM per ton of clinker produced.

Based on a stack test conducted October 14, 2015, Kiln #1 failed to demonstrate compliance with the 0.07 pounds of PM per ton of clinker produced, in violation of 40 CFR 63.1343, Table 1.

- d. Pursuant to Part 70 permit 019-35842-00008, issued September 2, 2015, condition C.14(b), a retest to demonstrate compliance shall be performed no later than 180 days after the date of the test.

Respondent failed to retest Kiln #1 within 180 days after failing stack test on October 14, 2015, in violation of Part 70 permit 019-35842-00008, condition C.14(b).

6. Respondent demonstrated compliance with the 0.07 pound PM per ton of clinker produced for Kiln #1 on July 12, 2016.

7. Respondent demonstrated compliance with the 0.07 pound PM per ton of clinker produced for Kiln #2 on May 3, 2016.
8. Respondent demonstrated compliance with the 0.07 pound PM per ton of clinker produced for Clinker Cooler #1 on May 10, 2016.
9. Respondent demonstrated compliance with the 0.07 pound PM per ton of clinker produced for Clinker Cooler #2 on May 11, 2016.
10. Respondent demonstrated compliance with the 24 ppmvd THC for Kiln #1 on January 5, 2017.
11. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with Part 70 Permit number 019-35842-00008, unless superseded by a permit modification or renewal.
3. Within 120 days of the Effective Date, Respondent shall conduct THC testing on Kiln #2.
4. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Matthew Chaifetz, Senior Enforcement Manager
Compliance and Enforcement Branch – Mail Code 61-53
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

5. Respondent is assessed and agrees to pay a civil penalty of Seventy Five Thousand Dollars (\$75,000.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the 30th day being the "Due Date".
6. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondent shall pay a stipulated penalty in the following amount:

<u>Paragraph</u>	<u>Violation</u>	<u>Stipulated Penalty</u>
3	Fail to conduct THC test for Kiln #2	\$500 per week or part thereof

7. Stipulated penalties shall be due and payable no later than the 30th day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; the 30th day being the "Due Date". Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
8. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

IDEM Office of Legal Counsel
IGCN, Rm N1307
100 N Senate Ave
Indianapolis, IN 46204
9. This Agreed Order shall apply to and be binding upon Respondent and his/her/its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
10. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 8, above.
11. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
12. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.

13. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
14. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
15. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
16. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.
17. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver
David P. McIver, Chief
Enforcement Section
Office of Air Quality

Date: 4-7-17

RESPONDENT:
Essroc Cement Corporation

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL
MANAGEMENT _____ DAY OF _____, 20 ____
THIS

For the Commissioner:

By: _____
Keith Baugues, Assistant Commissioner
Office of Air Quality
Indiana Department of Environmental
Management